

ARTICLE APPEARED
ON PAGE 5

THE RICHMOND NEWS LEADER
17 May 1983

Tape transcript OK'd in Lawler death trial

By Jim Mason
News Leader staff writer

The transcript of a secretly taped conversation in which Carl G. Simons boasted of being the killer of former Richmond City Councilman J. Edward Lawler will be allowed as evidence in Simons' jury trial in Richmond Circuit Court, Division II.

Judge William E. Spain ruled yesterday that the transcript and tapes were matters for the jury to consider.

His ruling stemmed from efforts by Simons' lawyers to block the prosecution from using the statements their client made to a state police informer.

Tape made secretly

The informer, William T. Kirby, secretly taped Simons when he told about the killing while the two were driving back to Richmond from Florida on Jan. 10, according to testimony in the pretrial hearing, which began Friday.

Both a transcript of the taped conversation and the recording itself are part of the prosecution's evidence.

According to testimony earlier this month at the trial of one of Simons' co-defendants, John Robert Ballard, Simons went to Florida with Ballard and Ballard's sister, Juanita, 18, several days after Lawler, 74, was beaten to death with bolt cutters during a robbery in his Riverside Drive home last Dec. 30.

Killing admitted

Ballard admitted during his trial that he killed Lawler, but he said Simons put him up to it and told him to keep hitting Lawler with the bolt cutters.

Simons told Kirby about the killing two or three days later at a used car lot where Kirby works, Kirby testified during John Ballard's trial. The two agreed to keep in touch after

Kirby told of needing a tough man for "a big job," according to testimony.

Simons telephoned Kirby from Fort Pierce, Fla., and asked him to drive down and get him for the return trip to Richmond and further discussion about "the big job," Kirby testified.

Boast said made

During the ride back to Richmond, Simons, 26, of Powhatan County, boasted of having killed Lawler, Kirby testified Friday. However, Simons took the stand Friday and denied having said that he killed Lawler. Simons also testified he was under the influence of drugs given him by the police informer. Kirby denied that he gave Simons drugs before and during the return trip to Richmond.

Defense lawyer Thomas P. Collins argued again yesterday that allowing the transcript of the taped conversation as evidence would not aid the jury in Simons' case in determining the truth in the killing of Lawler.

Spain agreed

Assistant Commonwealth's Attorney Warren Von Schuch countered that the transcript of the secretly taped conversation contained elements of truth and said that the jurors should be allowed to decide what parts of Simons' statements to Kirby were true.

Spain agreed. "All of that is a question for the jury," he said.

The judge also turned down a defense request for a delay in the trial.

Simons is scheduled to go on trial before a jury Thursday on charges of first-degree murder and robbery.

John Ballard has been convicted of first-degree murder in Lawler's killing. He is to be sentenced June 16.

The trials of co-defendants Juanita Ballard and Timothy Dickenson, 20, are to be scheduled June 13.